

**IN THE UNITED STATES PATENT OFFICE  
INTERNATIONAL SEARCHING AUTHORITY**

**VIA FACSIMILE AND COURIER**



In re International Application of

Applicant: Proteus, Inc.

International Application No. PCT/US99/17172

International Filing Date: 29 July 1999

For: RIBBED CORE DUAL WALL STRUCTURE

**PETITION TO REVIVE**

Date: July 27, 2000

International Searching Authority  
United States Patent Office

Attn: PCT Legal Staff

Sir:

The above identified PCT application was originally filed disclosing and claiming subject matter that was derived from two (2) United States Provisional applications, as well as subject matter that was original in the PCT application. Priority was claimed from the two (2) United States Provisional applications. These priority dates were about six (6) weeks apart. The relationship of the several priorities to the various subject matter was explained in an Addendum to Paragraph #3C of the Application Transmittal Letter dated July 29, 1999.

Through inadvertence and mistake, the due date for filing the Demand in this PCT application was docketed by the official docket clerk of the undersigned law firm to expire 19 months from the second priority date, rather than 19 months from the first priority date. Indeed, the Demand was filed on 30 March 2000, within 19 months of the second priority date, but alas, more than 19 months from the first priority date.

On July 7, 2000 the undersigned law firm received a Notice from the PCT Office (mailed July 5, 2000) that the Demand had been filed too late relative to the first priority date claimed for the above identified application. Unfortunately for all concerned, PCT office mailing and receipt of this Notice of late filing of the Demand was after the 20 month period for entering the National Phase, wherefore compounding an already bad situation.

Conferences with allegedly knowledgeable people in the US PCT Office and consultation of the treaty, the rules and other PCT information in the Manual of Patent Examining Procedure of the United States Patent and Trademark Office indicates that Article 31, relating to the filing of the Demand, does not specify a time limit within which the Demand may be filed. Rule 53 likewise does not specify a time limit within which a Demand must be filed. It is clear, however, that entry of the application into the National Phase (United States) must take place before the expiration of 20 months from the priority date, if no Demand is filed, or before the expiration of 30 months from the priority date if proper Demand has been filed.

It is recognized that applicant filed the Demand in this application more than 19 months after the first priority date. Therefore, applicant is prepared to forego its claim to priority from US Provisional application 60/096,237. If this is permitted, and the time for filing the Demand is calculated from the second priority date of 25 September 1998, The Demand was timely filed in this application.

Since there is no provision of the treaty that prohibits this deletion of a claim for priority at any time, nor is there a proscription in the treaty against recalculating any due date, it is urged that WIPO waive the non-treaty requirements and provisions, grant applicant the September 25, 1998 priority date and rule that the Demand was timely filed.

In the alternative, should the matter be decided against permitting withdrawal of the first claim for priority, recalculating the due date for filing the Demand, and accepting the filed Demand, it is hereby petitioned to revive the PCT application because missing

the Demand due date was inadvertent and unavoidable. Missing this date was due to a docketing error as to the priority date that was being claimed. Once that error was made as of the initial filing of this PCT application, the error of filing the Demand 18 days late could not have been avoided. It is therefore urged that this application be revived on the basis that its abandonment was unavoidable.

In the further alternative that this application is not revived because its abandonment was unavoidable, it is hereby petitioned to revive this application because its abandonment was unintentional.

There is being filed herewith the undersigned attorneys' check in the amount of \$605.00 which is the highest fee that any of the actions petitioned for herein commands. Should this fee be considered to be insufficient, permission is hereby given to debit the undersigned attorneys' deposit account 07-1337 in the United States Patent and Trademark Office for whatever additional fee is required. Similarly, should there be a surplus in the amount paid herewith in consideration of the relief that is granted, it is requested that this be credited to this same deposit account.

There is also being filed herewith a complete patent application that corresponds to the instant PCT application as originally filed and as amended in response to the International Preliminary Search Report. This application includes a transmittal document, an executed Inventor's Declaration; and a Declaration of Small Entity Status, as well as a check in the amount of \$381.00 which is believed to be sufficient to cover the filing fee due in connection with this filing. If the fee is insufficient or in excess, kindly make the suitable adjustment in regard to the above identified deposit account.

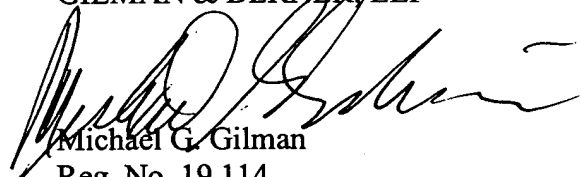
The instant petition has several levels of relief requested. They are in sequence:

1. withdrawal of the claim for priority from US provisional application 60/096,237 and recalculation of the due date for filing the Demand;
2. if relief 1 is denied, revival of the instant application on the basis that its abandonment was unavoidable; or

3. if relief 1 and 2 are denied, revival of the instant application on the basis that its abandonment was unintentional.

Respectfully submitted,

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Docket No. 4393-002